

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Tony Hammond

Competitive Product Prices  
Global Expedited Package Services 6 (MC2016-149)  
Negotiated Service Agreement

Docket No. CP2016-261

ORDER APPROVING ADDITIONAL  
GLOBAL EXPEDITED PACKAGE SERVICES 6  
NEGOTIATED SERVICE AGREEMENT

(Issued August 25, 2016)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Expedited Package Services 6 (GEPS 6) agreement (Agreement) within the GEPS 6 product.<sup>1</sup> For the reasons discussed below, the Commission approves the Postal Service's request.

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<sup>1</sup> Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 6 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 16, 2016 (Notice).

## II. BACKGROUND

Agreements included within the GEPS 6 product offer price incentives to mailers that use Priority Mail Express International, Priority Mail International, and First-Class Package International Service.<sup>2</sup> On August 16, 2016, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement for the GEPS 6 product and requests that the Agreement be added to the existing GEPS 6 product. Notice at 2. Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the GEPS 6 product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. The Postal Service also submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4. In addition, on August 17, 2016, the Postal Service filed Library Reference USPS-LR-CP2016-261/NP1, "Revisions to ISAL IPA Model15\_v.xls and ISC Dropship Model FY15.xls Resulting from Corrections to FY 2015 IOCS ISAL and IPA Coding."<sup>3</sup>

The Postal Service intends to notify the mailer of the effective date of the Agreement within 30 days after receiving Commission approval. Notice, Attachment 1 at 3. If the effective date of the agreement is the first of the month, the Agreement will remain in effect for one calendar year. *Id.* If the effective date of the Agreement is not the first of the month, the Agreement is set to expire on the last day of the month in which the effective date falls in the year subsequent to the effective date unless the Agreement is terminated earlier. *Id.*

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<sup>2</sup> Docket Nos. MC2016-149 and CP2016-188, Order Adding Global Expedited Package Services 6 Contracts to the Competitive Product List and Approval of Designation as Baseline Agreement, June 14, 2016, at 2 (Order No. 3365).

<sup>3</sup> Notice of the United States Postal Service of Filing of USPS-LR-CP2016-261/NP1, August 17, 2016.

On August 17, 2016, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with applicable statutory policies and Commission regulations; appointed a Public Representative; and provided an opportunity to comment.<sup>4</sup>

### III. COMMENTS

The Public Representative filed comments on August 24, 2016.<sup>5</sup> No other comments were received. Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, and the corresponding baseline agreement, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement and "should meet the requirements of 39 U.S.C. § 3633(a)." PR Comments at 2. She also reviewed the revisions contained in Library Reference USPS-LR-CP2016-261/NP1 but notes that "with the limited review period associated with competitive NSAs, [she] is unable to comment on the merits of revisions made to the files contained within the Library Reference." *Id.* at 3. She states that "[t]he changes in the Library Reference impact the inputs to the financial model" and "suggests that the Library Reference be reviewed in a separate docket to ensure that the changes are adequately reviewed." *Id.* However, she concludes that based on the results of a simple sensitivity analysis, "the Agreement is likely to meet the requirements of [ ] 39 U.S.C. § 3633(a) using both the original inputs and the inputs as revised by the Library Reference." *Id.*

### IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement established for the GEPS 6

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<sup>4</sup> Docket Nos. CP2016-166, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, August 17, 2016.

<sup>5</sup> Public Representative Comments on Postal Service Notice Concerning Additional Global Expedited Package Services 6 Negotiated Service Agreement, August 24, 2016 (PR Comments).

product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5, 3015.7).

*Functional equivalence.* In Order No. 3365, the Commission approved the addition of GEPS 6 to the competitive product list and designated an agreement as the baseline agreement for assessing the functional equivalence of agreements proposed for inclusion within the GEPS 6 product. See Order No. 3365 at 7.

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreement, and requests that the Agreement be included within the GEPS 6 product. Notice at 2. It asserts that the Agreement fits within the draft Mail Classification Schedule language for the GEPS 6 product. *Id.* at 3. The Postal Service also asserts that the Agreement and the baseline agreement possess similar cost and market characteristics and the same functional terms, but states that prices may differ. *Id.* at 3-4. The Postal Service identifies several differences between the Agreement and the baseline agreement, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.<sup>6</sup>

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the GEPS 6 product.

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<sup>6</sup> Differences include, among others, revised customer name and address, negotiated minimum revenue commitment, revisions to existing articles, and revised Annex 1 and Annex 2. *Id.* at 5-6.

*Cost considerations.* The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5, 3015.7. As long as the revenue generated by a product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's comments. The Commission finds that the Agreement should cover its attributable costs under the current accepted analytical principles. The addition of the Agreement to the GEPS 6 product should not cause cost coverage for the product to fall below 100 percent. Consequently, the Commission finds that the addition of the Agreement to the GEPS 6 product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the Agreement to the GEPS 6 product should allow the product to cover its attributable costs, the Commission finds that the addition of the Agreement to the product should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the addition of the Agreement to the GEPS 6 product is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the GEPS 6 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in future Annual Compliance Determinations to ensure that they continue to comply with 39 U.S.C. § 3633(a).

*Other considerations.* The Postal Service intends to notify the mailer of the effective date of the Agreement within 30 days after receiving Commission approval. Notice, Attachment 1 at 3. The Postal Service shall promptly notify the Commission of the effective date of the Agreement. If the effective date of the agreement is the first of the month, the Agreement will remain in effect for one calendar year. *Id.* If the effective date of the Agreement is not the first of the month, the Agreement is set to expire on the last day of the month in which the effective date falls in the year subsequent to the effective date unless the Agreement is terminated earlier. *Id.* If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

*Change in accepted analytical principles.* The Commission has reviewed the revisions set forth in Library Reference USPS-LR-CP2016-261/NP1 and finds that the revisions constitute a change in accepted analytical principles where they result in material changes to the cost methodology of this Agreement. The Postal Service did not file a petition pursuant to 39 C.F.R. § 3050.11 requesting that the Commission initiate an informal rulemaking proceeding in order to consider the revisions to the model prior to submitting the change in this docket. Therefore, the Commission did not utilize Library Reference USPS-LR-CP2016-261/NP1 in making its determination. Accordingly, should the Postal Service seek to use this new methodology in this docket or in the future, it must first initiate a proceeding to consider proposed changes in analytical principles based on the changes set forth in Library Reference USPS-LR-CP2016-261/NP1.

V. ORDERING PARAGRAPHS

*It is ordered:*

1. The Agreement filed in Docket No. CP2016-261 is included within the Global Expedited Package Services 6 (MC2016-149) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.
2. The Postal Service shall promptly notify the Commission of the effective date of the Agreement by filing a notice in this docket.
3. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.
4. Should the Postal Service seek to use the new methodology set forth in Library Reference USPS-LR-CP2016-261/NP1, it shall file a petition to initiate a proceeding under 39 C.F.R. § 3050.11.

By the Commission.

Stacy L. Ruble  
Secretary

## CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

### **Part B—Competitive Products**

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#### **2500                      Negotiated Service Agreements**

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#### **2510                      Outbound International**

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#### **2510.3                  Global Expedited Package Services (GEPS) Contracts**

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#### **2510.3.6              Products Included in Group (Agreements)**

Each product is followed by a list of agreements included within that product.

- GEPS 6  
    *Baseline Reference*  
        Docket Nos. MC2016-149 and CP2016-188  
        PRC Order No. 3365, June 14, 2016  
    *Included Agreements*

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CP2016-261, expires TBD

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